

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 16-1307

September Term, 2016

NLRB-32CA119054
NLRB-32CA126896

Filed On: February 21, 2017

Tarlton and Son, Inc.,

Petitioner

v.

National Labor Relations Board,

Respondent

Robert C. Munoz,
Intervenor

BEFORE: Rogers, Kavanaugh, and Millett, Circuit Judges

ORDER

Upon consideration of the motion to hold in abeyance and the intervenor's joinder in that motion, the response thereto, and the reply; and the motion to transfer and the intervenor's joinder in that motion, the response thereto, and the reply, it is

ORDERED that the motion to transfer be granted. The first valid petition for review of the agency order at issue in this case was filed in the United States Court of Appeals for the Ninth Circuit. See Industrial Union Dep't, AFL-CIO v. Bingham, 570 F.2d 965 (D.C. Cir. 1977) (a premature petition for review cannot be the "first filed" petition within the meaning of 28 U.S.C. § 2112(a)(1), even if it is filed earlier in time than all competing petitions for review); Tarlton & Son v. NLRB, No. 16-1141 (D.C. Cir. Oct. 18, 2016) (dismissing petition for review as incurably premature). The Clerk is directed to send a copy of this order and the original file to the United States Court of Appeals for the Ninth Circuit. It is

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FURTHER ORDERED that the motion to hold in abeyance be dismissed as moot.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.

Per Curiam